

54404

New Jersey Department of Environmental Protection, Division of Coastal Resources
Bureau of Freshwater Wetlands

FW-1

Freshwater Wetlands Permit Application

For Freshwater Wetlands Permit (NJSA 13:9B, NJAC 7:7A), Water Quality Certification (NJAC 7:7A), Open Water Fill Permit (NJSA 58:10A, as amended by NJSA 13:9B-31, & NJAC 7:7A.) & Transition Area Waiver (NJAC 7:7A)

This form is to be used to apply for a Statewide General Freshwater Wetlands Permit, Individual Freshwater Wetlands Permit, Open Water Fill Permit, Water Quality Certificate, and Transition Area Waiver. Activities covered by Statewide General Permits are described in the Freshwater Wetlands Protection Act Rules (Specifically, NJAC 7:7A-9). All activities regulated under the Freshwater Wetlands Protection Act, P.L. 1987, c. 156 which are not explicitly covered by a Statewide General Permit, require an Individual Permit. Three sets of instructions are attached, explaining which items need to be completed for Individual Permits, Statewide General Permits, and Transition Area Waivers. All items must be completed for an Individual Permit. For more detailed information, and procedures for obtaining permit approvals, see NJAC 7:7A.

Information provided on this form will be used in evaluating the application for a permit/waiver, and shall be a matter of public record.

Disclosure of the information requested is voluntary. If necessary information is not provided, the permit/waiver application cannot be processed nor can a permit/waiver be issued.

This application should be submitted to the NJ Department of Environmental Protection, Division of Coastal Resources, Bureau of Freshwater Wetlands, CN 401, Trenton, NJ 08625 (Street address: Station Plaza 5, 501 East State Street, Trenton). An original and two (2) copies are needed for a proposed activity covered by a Statewide General Permit. An original and nine (9) copies of this completed application form, along with ten (10) copies of all support documents specified below, must be submitted for an Individual Freshwater Wetlands Permit or Open Water Fill Permit Application. An original and five copies are needed for a Transition Area Waiver. If additional space is needed to complete this application, use plain bond paper and attach it to the application form. Please reference the application form item numbers for all such additions.

FOR NJDEP USE ONLY

Application number: _____

Fee received: \$ _____

By: _____ Date: _____

Type or print all information

1. Name and address of applicant: _____

Telephone number during business hours:

Residence () _____ - _____
Work () _____ - _____

3. This application is for:

- ☐ Approval of activities covered by a Statewide General Permit Number(s) _____
☐ Individual Freshwater Wetlands Permit
☐ Individual Open Water Fill Permit
☐ Water Quality Certificate
☐ Transition Area Waiver

See Program Summary in Appendix A for applicable permit/waiver descriptions and numbers.

4. Fee Attached: \$ _____

(See Attached fee schedule in Appendix B.)

Telephone number during business hours:

Work () _____ - _____

Statement of Authorization: I hereby designate and authorize _____

to act on my behalf as my agent with regard to this permit/waiver application and to furnish, upon request, supplemental information in support of this application.

Signature of Applicant _____

Date _____

5. Provide a written description of the proposed regulated/prohibited activity including the total area to be used, filled, or modified. See Instruction Item #5 for the specific information required for an Individual or State Open Water Permit, Statewide General Permit, or Transition Area Waiver.

6. Describe the purpose and use of the proposed regulated activity.
7. Describe in detail the discharge of dredged or fill material, if such a discharge is part of the proposed project.
8. List the names and addresses of adjoining property owners, leasees and holders of easements on properties directly adjacent to the property which is the site of the proposed project.
9. List the name of adjacent waterbodies, or location on the waterbody where the activity is proposed.
10. Location where the activity is proposed: <div style="margin-left: 20px;"> Address: _____ Street, Road, Route or other descriptive location <div style="display: flex; justify-content: space-between; margin-top: 10px;"> _____ Municipality _____ State _____ Zip </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> _____ Block(s) _____ Lot(s) _____ County </div> </div>
11. Is any portion of the activity for which authorization is sought now completed? <input type="checkbox"/> Yes <input type="checkbox"/> No If answer is "Yes", give month and year the activity was completed and indicate the existing work on the drawings.
12. Provide a description of alternatives.
13. Describe any potential adverse environmental impacts.
14. Describe the wetland plant community, special aquatic sites, etc. as specified in item #14 of instruction sheet.

15. Describe potential human health or welfare impacts from the proposed regulated activity.

16. Describe mechanisms to minimize adverse environmental impacts.

17. For any structure, construction, discharges or other activities described in this application, indicate below all approvals, certifications or denials received from any federal, interstate, state or local agencies.

• In Column A, indicate application status: (pending, approved, denied, or other - explain other).

• In Column B, indicate application, permit, or docket number.

DCR Programs	A	B		A	B
CAFRA	_____	_____	Water Quality Certificate	_____	_____
Waterfront Development	_____	_____	Open Water Fill	_____	_____
(Tidal or Coastal) Wetlands	_____	_____	Stream Encroachment	_____	_____
Statewide General Freshwater Wetlands	_____	_____	Dam Construction or Repair	_____	_____
Individual Freshwater Wetlands	_____	_____	Tidelands (Riparian) Conveyance	_____	_____
Freshwater Wetlands Transition Area Waiver	_____	_____			
Other Programs					
Purchase Water Diversion	_____	_____	Sewer System: Extension Collectors, pumpstations, etc.	_____	_____
Divert Water Supply for Public Use	_____	_____	Exemption from Sewer Ban	_____	_____
Divert Surface Waters for Private Use	_____	_____	NJ Pollution Discharge Elimination System	_____	_____
Divert Subsurface or Percolating Water for Private Use	_____	_____	Solid Waste Permits (Specify)	_____	_____
Well Drilling	_____	_____	Air Quality Permits (Specify)	_____	_____
Permanent Water Lowering	_____	_____	D&R Canal Certificate	_____	_____
Temporary Water Lowering	_____	_____	Pinelands Certificate	_____	_____
Construct, Modify or Operate Public Potable Water Works	_____	_____	Soil Erosion & Sediment Control Plan	_____	_____
Connection between approved and Non-approved water supply	_____	_____	Other State (Specify)	_____	_____
			Local Permits (Specify)	_____	_____
			Federal Permits (Specify)	_____	_____

18. Provide a list of plants, fish, etc. as described in item #18 of the instruction sheet.				
19. For an Individual Permit, attach an original and nine (9) copies of the following: site plan, a subdivision map if available, and vicinity map. (See instruction sheet item #19.) For a Statewide General Permit, attach an original and two (2) copies of site plan and vicinity map. (See General Permit instruction sheet item #19). For a Transition Area Waiver, attach an original and five (5) copies of all the information specified at Instruction Sheet Item #5				
20. Attach verification that notices have been forwarded by registered mail to all parties specified in item #20 of instruction sheet.				
21. Attach a newspaper notice, or notices, if required (See instruction sheet item #21).				
22. Attach photographs of the site of the proposed activity as described in item #22 of the instruction sheet.				
23. Have you attached a separate mitigation proposal as described in item #23 of the instruction sheet? ___ Yes ___ No				
24. Signatures - I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate and complete. I am aware that there are penalties for submitting false information including the possibility of fines and imprisonment. I hereby authorize the staff of the NJDEP to conduct such on-site inspections of the parcel(s) which are the subject of the application as are necessary to review this application and to ensure compliance with the requirements of the New Jersey Freshwater Wetlands Protection Act (N.J.S.A. 13:9B- <u>et seq.</u>) and implementing rules (N.J.A.C. 7:7A-1 <u>et. seq.</u>). <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> _____ Signature of Applicant </div> <div style="width: 45%;"> _____ Date </div> <div style="width: 45%;"> _____ Signature of Agent </div> <div style="width: 45%;"> _____ Date </div> </div>				
25. Property Owner's Certification - (Complete if applicant is different than property owner). I hereby certify that I am the owner of the property upon which the proposed work is to be done, and I grant permission to conduct the proposed activity. A portion of the proposed activity will _____ will not _____ take place within an easement, and no _____ some _____ part of the proposed activity will take place on property owned by the State of New Jersey. <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> _____ _____ _____ Type or Print Name and Address of Owner, if different from applicant </div> <div style="width: 45%;"> _____ Signature of Owner(s) _____ Date </div> </div>				
Attachments: I have attached supplemental information for the items checked below:				
Item #1. _____ Item #2. _____ Item #3. _____ Item #4. _____ Item #5. _____	Item #6. _____ Item #7. _____ Item #8. _____ Item #9. _____ Item #10. _____	Item #11. _____ Item #12. _____ Item #13. _____ Item #14. _____ Item #15. _____	Item #16. _____ Item #17. _____ Item #18. _____ Item #19. _____ Item #20. _____	Item #21. _____ Item #22. _____ Item #23. _____ Item #24. _____ Item #25. _____

INSTRUCTION SHEET

INDIVIDUAL FRESHWATER WETLANDS PERMIT APPLICATION (Form FW-1)

These are instructions for completing an Individual Freshwater Wetlands Permit, Open Water Fill Permit and/or Water Quality Certification Application (Form FW-1). For Statewide General permit instructions, see the attached Statewide General Permit instruction sheet. For more detailed application information, see Freshwater Wetlands Protection Act Rules (N.J.A.C. 7:7A-11).

Application Number and Fee:

Do not mark in this block. This will be completed by NJDEP.

Item #1 - Name and permanent legal address of the applicant (The site of the proposed activity goes in item #10).

Item #2 - (Optional). All applications to the Department shall be signed by the applicant or by a duly authorized representative, or agent, of that person in Item #24. The NJDEP does not require an applicant to have an agent. A person is a duly authorized representative only if the requirements of N.J.A.C. 7:7A-11.3 are met. Sign this item only if you have an agent.

Item #3 - Indicate the permit(s) for which you are applying. See attached Program Summary in Appendix A and N.J.A.C. 7:7A if a more detailed explanation is necessary. If the proposed activity includes the discharge of dredged or fill materials in wetlands or water of the United States, then a Section 401 Water Quality Certificate is required.

Item #4 - Enter the amount of the fee submitted based upon the attached fee schedule in Appendix B. Do not submit cash. Your personal check, certified or cashier's check, attorney check or money order must be made payable to "Treasurer - State of New Jersey" and marked to identify the nature of the submittal and the name of the applicant. The permit review fee is based on N.J.A.C. 7:7A-16.

Item #5 - Provide a written description of the proposed regulated activity. Indicate the total area to be used, filled or modified, and the total area of the freshwater wetland or State open waters potentially affected.

Item #6 - Describe the purpose and intended use of the proposed activity, including whether it is water dependent as defined in N.J.A.C. 7:7A-1.4, a description of the use of any structures to be erected, and a schedule for the progress and completion of the proposed activity.

Item #7 - Describe the source and location of any dredged material or source fill material and method of dredging used, if any; a description of the type, composition and quantity of the material; and the proposed method of transportation and disposal of the material, including the type of equipment to be used. NOTE: The site plan (Item #19) shall include a cross-sectional view showing the following:

- a. Existing water elevations of the wetland or water area;
- b. Existing water depths at waterward face of proposed work, or if dredging is proposed, show dredging grade;
- c. Cross-section of fill;
- d. Elevation of spoil areas;
- e. Location of wetlands;
- f. Delineation of disposal site; and
- g. The title block for each sheet submitted should contain the name of the body of water; river mile, if applicable; name of county and municipality; name of applicant; number of the sheet and the total number of sheets in the set; and the date the drawing was prepared.

Item #8 - Self explanatory. If adjacent properties or property owners are not readily apparent, municipal tax records should be consulted.

Item #9 - Identify the waterbody or watershed, such as the name of adjacent streams, lakes, reservoirs, creeks, rivers, etc., in or near where the project is located. Quantify the relationship of the area affected by the proposed work to the area of the entire freshwater wetland or State open waters complex, for example, one-half acre to be filled of a 15 acre freshwater wetland.

Item #10- Specify the location of the activity (work site) including county, municipality, lot(s), block(s), etc.

Item #11- Self explanatory.

Item #12- Provide a description of alternatives to the proposed activity or discharge, including alternative sites, reduction in scale of activity, construction methods which would reduce the amount of disturbance or fill, methods to reduce the environmental effects of the activity, and reasons for rejecting the alternatives.

Item #13- Attach a statement detailing: any potential adverse environmental effects of the regulated activity such as permanent loss of fish and/or wildlife and/or their habitat; any measures necessary to prevent and/or minimize those effects, and any information necessary for the Department to make findings regarding acceptability pursuant to N.J.A.C. 7:7A-3 and 4. Applicants should review N.J.A.C. 7:7A-3 and 4 in great detail and provide all the listed information to avoid unnecessary delays in permit processing.

Item #14- Describe all freshwater wetlands vegetative communities, special aquatic sites (as defined at N.J.A.C. 7:7A-1.4), public use areas, wildlife refuges, and public water supply intakes in the areas affected by or adjacent to the proposal.

Item #15- Describe any uses or aspects of the proposed activity or discharge which might affect human health and welfare.

Item #16- Describe technologies or management practices by which the applicant proposes to minimize adverse environmental effects of the activity or discharge. (Guidance regarding minimizing adverse effects can be found in federal regulations at 40 CFR 230.)

Item #17- Several approvals may be required for certain activities. For example, installation of municipal water wells in a wetlands may require a Well Drilling Permit, Water Allocation Permit, as well as a Freshwater Wetlands Permit. In Item #17 indicate all necessary governmental approvals, permits pending, approved, denied, or other explain other. For more information on which permits may be required contact the NJDEP Planning Group at (609) 292-2662; or NJ Department of Commerce, Energy and Economic Development, Office of Business Advocacy at (609) 292-0700.

Item #18- Attach a list of plants, fish, shellfish and wildlife in the proposed activity or discharge site which may be dependent on water quality and quantity.

Item #19- Attach an original and nine (9) copies (including one of reproducible quality) of the site plan, vicinity map identify the proposed activity site, and subdivision map (if one exists). The Bureau prefers the vicinity map to be a copy or portion of a U.S.G.S. Topographic Quadrangle Map. These may be on 8 1/2 inch by 11 inch paper if appropriate. If larger than 8 1/2 inch by 11 inch, all copies shall be folded. These plans and maps must indicate the following:

- a. All existing structures on the lot and immediately adjacent lots;

- b. Distances and dimensions of areas, including freshwater wetlands and State open waters and ordinary high water line (if appropriate), lots, upland property, roads and utility lines;
- c. A complete delineation of the wetlands boundary in accordance with the requirements of N.J.A.C.7:7A-8.2.A Letter of Interpretation issued by the Department, or a jurisdictional letter (wetlands line delineation or verification), from the U.S. Army Corps of Engineers, may be submitted to satisfy this requirement. Please include a copy of a map of plan which depicts the approved line.
- d. The area which will be used for the proposed activity or discharge;
- e. The general site location in relation to development in the region;
- f. The scale of the plan and a north arrow;
- g. The name of the person who prepared the plan and the date of preparation; and
- h. The name of the applicant and municipal lot(s) and block number(s) of the project site.

Item #20- Attach verification that a registered mail notice; describing the proposed regulated activity, such as a copy of the FW-1 Form, a site plan and a copy of the vicinity map and advising these parties of their opportunity to submit comments thereon to the Department; have been forwarded to:

- a. the clerk, the environmental commission (if any), and the planning board of the municipality in which the proposed regulated activity will occur;
- b. the planning board, environmental commission and mosquito control agency of the county in which the proposed regulated activity will occur;
- c. landowners within 200 feet of the property or properties on which the proposed regulated activity will occur; and
- d. all persons who requested to be notified of proposed regulated activities. See Appendix C for a listing of these parties.

You may attach to this form originals or copies of the registered mail return receipts as verification.

Item #21- Attach verification that notice of the proposed activity, describing the proposed regulated activity and advising parties of their opportunity to submit comments thereon to the Department, has been published in a newspaper of local circulation. For projects proposing more than 10 acres of fill, notification shall also be published in a newspaper of regional circulation.

Item #22- Attach photographs showing the activity site including:

- a. location of all known freshwater wetlands and State open waters; and
- b. proposed location of the regulated activity.

These photographs should be mounted on 8 1/2 x 11" paper with an explanation of each photograph.

Item #23- Please indicate whether or not you are submitting a mitigation proposal with this application. A mitigation proposal, meeting the requirements of N.J.A.C. 7:7A-14.4, may be submitted with the permit application or may be submitted at a later time. The Department requires an approved mitigation plan as a condition precedent to engaging in a regulated activity. Section 13b of the Freshwater Wetlands Protection Act requires the Department to review the merits of a mitigation proposal independently of the review the merits of a mitigation proposal independently of the review process for a Freshwater Wetlands or Open Water Fill Permit.

Item #24- Signature. All permits applications and reports shall be signed as follows:

- a. For a corporation, by a principal executive officer of at least the level of vice-president;
- b. For a partnership or sole proprietorship, by a general partner or the proprietor, respectively;
- c. For a municipality, state, federal, or other public agency, by either a principal executive officer or ranking elected official;
- d. By individual property owners of record; or
- e. By a duly authorized representative or agent as specified in item #2 of this instruction sheet.

Item #25- Self explanatory.

Attachments: Please check the items for which you have submitted additional attachments, if any.

Note: The Department shall provide permit applicants with guidance, either through the application form or on an individual basis, regarding the level of detail of information and documentation required. The level of detail shall be reasonably commensurate with the type and size of the proposed project, proximity to critical areas, and degree of environmental degradation. The Bureau of Freshwater Wetlands can be reached at (609) 984-0853.

If you have any questions, first please read the appropriate section(s) of the Freshwater Wetlands Protection Act Rules (N.J.A.C. 7:7A-1 et. seq.) See in particular N.J.A.C. 7:7A-11.

If you still have questions feel free to contact the NJDEP Bureau of Freshwater Wetlands at (609) 984-0853.

Applicants are encouraged to consider requesting a pre-application conference to resolve any questions. See N.J.A.C. 7:7A-10 for information on requesting a pre-application conference.

INSTRUCTION SHEET

STATEWIDE GENERAL PERMIT APPLICATION (Form FW-1).

These are the instructions for completing a Statewide General Freshwater Wetlands Permit application under the N.J. Freshwater Wetlands Protection Act Rules (N.J.A.C. 7:7A-1 et. seq.)

NOTE: No activity is authorized under a Statewide General Permit unless first approved in writing by NJDEP. To obtain an approval letter, complete form FW-1 according to the instructions below, and submit it, with attachments specified below, to NJDEP at least 30 days prior to commencement of the proposed work. See N.J.A.C. 7:7A-9 for more information on obtaining approvals under Statewide General Permits. Attach additional sheets if necessary. Other items in the FW-1 form do not need to be completed for approval of a Statewide General Permit.

Item #1 - Enter the name of applicant, permanent legal address, and telephone number during business hours.

Item #2- (Optional). NJDEP does not require an applicant to have an agent. If you have an agent, complete Item #2 according to Individual Permit Instruction sheet Item #2. Sign this item only if you have an agent.

Item #3- Indicate the identification number of the Statewide General Permit or permits for which you are applying as listed in the attached Program Summary in Appendix A. See N.J.A.C. 7:7E-9.4 for guidance regarding the use of multiple Statewide General Permits on a specific site.

Item #4- Enter the amount of fee submitted based upon the attached fee schedule. Do not submit cash. Your personal check, certified or cashier's check, attorney check, or money order must be made payable to "Treasurer - State of New Jersey" and marked to identify the nature of the submittal and name of applicant.

Item #5- Enter a written description of the proposed activity. Also, please submit any information necessary to determine whether the conditions of the general permit for which you are applying will be satisfied. See attached conditions for each general permit in the Program Summary in Appendix A, and the Freshwater Wetlands Protection Act Rules in N.J.A.C. 7:7A-9.

Skip Items #6-9.

Item #10- Specify the location of the activity (work site) including county, municipality, lot(s), block(s), etc.

Item #11- Self explanatory.

Skip Items #12 to 16.

Item #17- Specify all necessary governmental approvals, permits pending, approved or denied which are necessary. See Item #17 of the Individual Permit instruction sheet for further explanation.

Skip Item #18

Item #19- Submit an original and two (2) copies of the site plan and vicinity map detailing: existing structures, wetlands boundaries, and proposed structures or activities. The site plan must be legible for prompt processing. The Bureau prefers the vicinity map to be a copy or portion of a U.S.G.S. Topographic Quadrangle map.

Item #20- Attach verification that register mail notices, including a copy of this completed FW-1 form, a site plan and vicinity map, have been received by the municipal clerk and the county clerk. Skip Items #21 to 23:

Item #24- Sign and date the application in accordance with the Individual Permit instructions for #24.

Item #25- This item must be completed if the applicant (Item #1) is different than the owner(s).

NOTE:

It is not necessary for you to complete any other items on the FW-1 form unless you need to cross-reference to other permit applications currently pending with NJDEP, or to other applications to be submitted to NJDEP relating to the proposed work. Item #17 provides the place to do this if necessary.

The NJDEP, within 30 days of receipt of this application, shall notify the applicant or agent proposing to engage in the activity covered by a general permit in writing as to whether they are covered by the Statewide General Permit, or whether an individual permit is required for the activity. Activities begun or carried out without this written notification shall be a violation of the Statewide General Permit, the Freshwater Wetlands Protection Act and N.J.A.C. 7:7A. Authorizations will also be published in the DEP Bulletin.

Upon receiving an application for authorization under a Statewide General Permit, the Department may require that the owner apply for an individual permit. Cases where an individual permit may be required can be found at N.J.A.C. 7:7A-9. These include but are not limited to:

1. An activity with more than a minimal adverse environmental effect;
2. An activity with cumulative effects on the environment that are more than minimal; and
3. An applicant or project which is not in compliance with the conditions of the general permit.

INSTRUCTION SHEET

TRANSITION AREA WAIVER APPLICATION (Form FW-1)

These are the instructions for completing a Transition area waiver application under the N.J. Freshwater Wetlands Protection Act Rules (N.J.A.C. 7:7A et seq.)

Application Number and Fee:

Do not mark in this block. This will be completed by NJDEP.

Item #1 - Name and permanent legal address of the applicant (The site of the proposed activity goes in item #10).

Item #2 - (Optional). All applications to the Department shall be signed by the applicant or by a duly authorized representative, or agent, of that person in Item #24. The NJDEP does not require an applicant to have an agent. A person is a duly authorized representative only if the requirements of N.J.A.C. 7:7A-11.3 are met. Sign this item only if you have an agent.

Item #3 - Indicate the transition area waiver(s) for which you are applying. See attached Program Summary in Appendix A and N.J.A.C. 7:7A if a more detailed explanation is necessary.

Item #4 - Enter the amount of the fee submitted based upon the attached fee schedule in Appendix B. Do not submit cash. Your personal check, certified or cashier's check, attorney check or money order must be made payable to "Treasurer - State of New Jersey" and marked to identify the nature of the submittal and the name of the applicant. The permit review fee is based on N.J.A.C. 7:7A-16.

Item #5 - The following items must be submitted for the following types of transition area waivers:

a. Transition area waiver, reductions.

1. Standard reduction pursuant to N.J.A.C. 7:7A-7.2(a) and 7.3(a).

i. A description of the dominant vegetational community in the standard transition area, as determined pursuant to N.J.A.C. 7:7A-7.2(e)1.

ii. The slope of the standard transition area, pursuant to N.J.A.C. 7:7A-7.2(e)2.

iii. The development intensity of the proposed project, as determined pursuant to N.J.A.C. 7:7A-7.2(e)3.

2. "Farming" reduction pursuant to N.J.A.C. 7:7A-7.2(d). In addition to the above three items the following items are required for this waiver.

i. A detailed description of the size and type of the transition area planting project.

ii. A site plan showing the location of the proposed work and a cross sectional and plan view of the proposed work.

iii. A description of the types of native trees and shrubs to be planted and at what spacing, as well as the type of seeding, fertilization and other stabilization activities to be used.

iv. A monitoring and maintenance plan of the transition area to ensure no less than 85 percent survival of the plants for three years.

v. A schedule from initiation to completion of the planting project including the dates of planting and fertilization, dates of monitoring measurements, and other activities as they apply.

vi. Existing soil type(s) and soil conditions in the standard transition area.

vii. Proof that the standard transition area has been part of an "established ongoing farming, ranching, or silviculture operation" within the two years prior to submittal of the application.

b. Transition area waiver, special activities.

1. Special activity, stormwater management facilities pursuant to N.J.A.C. 7:7A-7.4(b).

i. A written alternatives analysis considering all feasible onsite alternatives including a written description and site plan drawing depicting these alternatives and the reason for rejecting alternatives.

2. Special activity, linear development pursuant to N.J.A.C. 7:7A-7.4(c).

i. A written alternatives analysis considering all feasible alternatives including a written description and site plan drawing depicting these alternatives and the reason for rejecting alternatives.

3 Special activity, activities permitted under certain Statewide general permits pursuant to N.J.A.C. 7:7A-7.4(e).

i. Provide a written description of the proposed activity. Also, submit any information necessary to determine whether the conditions of the activities described under the general permit for which you are applying will be satisfied. See attached conditions for each general permit in the Program Summary in Appendix B, and the Freshwater Wetlands Protection Act Rules in N.J.A.C. 7:7A-9.

c. Transition area waiver, averaging plans pursuant to N.J.A.C. 7:7A-7.5.

i. The total square footage of the existing transition area.

ii. The total square footage of the transition area to be disturbed.

iii. The total square footage proposed for both the transition area reduction and expansion pursuant to the transition area averaging plan.

iv. A site plan clearly showing:

(1). the standard transition area;

(2). the proposed area of reduction; and

(3). the proposed area of compensation.

Skip Items #6 and #7

Item #8 - Self explanatory. If adjacent properties or property owners are not readily apparent, municipal tax records should be consulted.

Skip Item #9

Item #10- Specify the location of the activity (work site) including county, municipality, lot(s), block(s), etc.

Item #11- Self explanatory.

Skip Items #12 to 16.

Item #17- Specify all necessary governmental approvals, including permits pending, approved or denied which are necessary. See Item #17 of the Individual Permit instruction sheet for further explanation.

Skip Item #18

Item #19- Submit an original and five (5) copies of the site plan and vicinity map detailing: existing structures, wetlands and transition area boundaries, and proposed structures or activities. The site plan must be legible for prompt processing. The Bureau requires that the vicinity map be a copy or portion of a U.S.G.S. Topographic Quadrangle map.

Item #20- Attach verification (certified mail receipts) that the below agencies have been notified of your request for a Transition Area Waiver:

- a. Municipal Clerk (Notification must include all materials submitted to NJDEP);
- b. Municipal Environmental Commission;
- c. Municipal Planning Board;
- d. County Planning Board.

Skip Items #21 to 23.

Item #24- Signature. All permits applications and reports shall be signed as follows:

- a. For a corporation, by a principal executive officer of at least the level of vice-president;
- b. For a partnership or sole proprietorship, by a general partner or the proprietor, respectively;
- c. For a municipality, state, federal, or other public agency, by either a principal executive officer or ranking elected official;
- d. By individual property owners of record; or
- e. By a duly authorized representative or agent as specified in item #2 of this instruction sheet.

Item #25- This item must be completed if the applicant (Item #1) is different than the owner(s).

NOTE:

It is not necessary for you to complete any other items on the FW-1 form unless you need to cross-reference to other permit applications currently pending with NJDEP, or to other applications to be submitted to NJDEP relating to the proposed work. Item #17 provides the place to do this if necessary.

The NJDEP, within 30 days of receipt of this application, shall review the application for completeness and make any necessary requests for additional information. The Department shall issue or deny a transition area waiver within 90 days of receiving a complete application. Decisions on Transition area waivers will be published in the DEP Bulletin.

Appendix A

New Jersey Department of Environmental Protection Freshwater Wetlands Program

Summary of Freshwater Wetlands Program Regulations and Procedures

NOTE: This is only a summary. The complete, official rules can be found in the New Jersey Administrative Code at N.J.A.C. 7:7A.

The Freshwater Wetlands Protection Act, signed into law July 1, 1987, requires a permit from the New Jersey Department of Environmental Protection, Division of Coastal Resources, for most activities which alter or disturb land or water in or around freshwater wetland areas, and for the discharge of dredged or fill material into State open waters.

A freshwater wetland is an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions; commonly known as hydrophytic vegetation.

Effective July 1, 1988, individuals proposing to engage in a regulated activity (see list below) in a freshwater wetland or State open water area must obtain one or more of the following permits from the Bureau of Freshwater Wetlands, Division of Coastal Resources: a Statewide General Permit, an Individual Freshwater Wetlands Permit, an Open Water Fill Permit, or a Water Quality Certification. Until such time as the State assumes the Federal 404 program, most projects will also need a 404 permit from the U.S. Army Corps of Engineers (ACOE) which will require that a separate, complete application and fee be submitted by the applicant for their review and approval in addition to these procedures.

Effective July 1, 1989, individuals proposing to engage in prohibited activities (see list below) in transition areas must obtain a transition area waiver from the Department. Transition areas of 50 feet and 150 feet are required adjacent to wetlands of intermediate and exceptional resource value wetlands, respectively.

Regulated Activities in a freshwater wetlands

The following activities proposed in a freshwater wetland require a permit from the Division of Coastal Resources, Bureau of Freshwater Wetlands:

1. The removal, excavation, disturbance or dredging of soil, sand, gravel or aggregate material of any kind.
2. The drainage or disturbance of the water level or water table.
3. The dumping, discharging or filling with any materials.
4. The driving of pilings.
5. The placing of obstructions.
6. The destruction of plant life which would alter the character of a freshwater wetland.
7. The discharge of dredged or fill material into State open waters.

Prohibited Activities in transition areas adjacent to freshwater wetlands

The following activities proposed in a transition area adjacent to a freshwater wetlands require a transition area waiver from the Division of Coastal Resources.

1. Removal, excavation, or disturbance of the soil;
2. Dumping or filling with any materials;
3. Erection of structures;
4. Placement of pavements; and
5. Destruction of plant life which would alter the existing pattern of vegetation.

The rules further define a class of activities which are not prohibited in a transition area. They are:

1. Normal property maintenance. This class includes the maintenance and replacement of natural and artificial features including minor landscaping, maintenance of gardens up to 0.25 acres and existing humanmade structures;

2. Minor and temporary disturbances resulting from, and necessary for normal construction activities on land adjacent to the transition area; and

3. Erection of temporary structures covering less than 150 square feet.

Wetland Determinations

Freshwater wetlands are identified using a 3 parameter approach which examines hydrology, soils, and vegetation of a given site. The details of this method are described in a publication developed by the U.S. Environmental Protection Agency (USEPA) entitled "Wetlands Identification and Delineation Manual". Some additional sources of information available to individuals investigating the presence or absence of wetlands within or adjacent to a site include: county soil surveys; flood hazard area maps; U.S. Fish and Wildlife Service National Wetland Inventory Maps; U.S.G.S. quadrangle maps; and local knowledge of site conditions. The Bureau of Freshwater Wetlands is presently working to comprehensively map the state's wetlands to provide an additional source of information. These maps should be available for certain parts of the State beginning in 1990.

Transition Areas

A transition area is an ecological zone adjacent to a freshwater wetland, extending from the freshwater wetlands boundary into the uplands for a specific distance. The transition area serves as a buffer to minimize the adverse impacts of human activities on the freshwater wetland and is also an integral component of the freshwater wetland ecosystem.

Sections 16, 17, and 18 of the Act establishes transition areas adjacent to freshwater wetlands of exceptional and intermediate resource value, prohibit certain types of activities in these transition areas, and provide in certain limited instances for waivers from the prohibitions. These provisions of the Act protect the integrity of the freshwater wetlands by creating an area adjacent to the wetlands which is subject to Department regulation. Within these transition areas, the rule provides strict controls on activities which would have an adverse impact on the freshwater wetlands ecosystem.

The rules establish standard transition area widths for freshwater wetlands based on the resource value classification of the freshwater wetlands. The determination of resource value classification of a freshwater wetland is described below. The standard transition area for freshwater wetlands of exceptional resource value is 150 feet while the standard transition area for intermediate resource value freshwater wetlands is 50 feet. Transition areas are not established for wetlands classified as ordinary resource value.

State Open Waters

A State open water is defined as those waters of the United States in New Jersey for which the ACOE can suspend the issuance of section 404 permits upon approval of New Jersey's section 404 permit program by the Administrator (see section 404(h) of the Federal Act). State open waters do not include:

1. Waters which are subject to the ebb and flow of the tide;
2. Waters used or potentially useful as a means to transport interstate or foreign commerce;
3. Wetlands adjacent to waters subject to the ebb and flow of the tide; and
4. Freshwater wetlands as defined above.

Wetland Resource Value

The Freshwater Wetlands Protection Act classifies wetlands according to their resource value as exceptional, intermediate, or ordinary. The resource classification of a particular wetland will be considered by the Bureau in assessing site alternatives, availability of certain Statewide General Permits, mitigation proposals and is used for the basis of determining the standard width of the transition area.

Letters of Interpretation

A letter of interpretation is the means by which the State documents the extent of wetlands on a given site. Individuals may request a letter of interpretation from the Bureau of Freshwater Wetlands to determine the presence or absence of wetlands on a property, confirm the boundary of a specific wetland, or obtain a delineation of wetlands on properties which are one acre or smaller. For properties larger than one acre, the Bureau will verify boundaries delineated by a consultant but the Bureau does not do the delineation.

A complete listing of the information which must be submitted to obtain a letter of interpretation is provided in the Freshwater Wetlands Protection Act Rules, at N.J.A.C. 7:7A-8.2.

Exempted Activities

Activities that are part of an established, ongoing farming, ranching, or silviculture operation which are eligible for, or receive, a farmland assessment are exempt from the requirement of obtaining a freshwater wetland permit, provided the activities do not result in the conversion of a wetland to a non-wetland area.

Examples of such exempted activities are: plowing, seeding, cultivating, harvesting, upland soil and water conservation practices, minor drainage, construction or maintenance of farm ponds, irrigation ditches, farm and forest roads and the normal harvesting of forest products.

Minor drainage projects are limited to areas that are actively farmed. Drainage is not authorized for the conversion of a wetland to a non-wetland area, for the conversion of silviculture to farming, or for an activity which significantly modifies a wetland. In addition, none of the above exemptions apply to any activity which involves bringing an area of freshwater wetlands or State open water into a use to which it was not previously subject. See N.J.A.C. 7:7A-2 for the exact limits of exemptions.

Projects for which applications for preliminary site plan or major subdivision approval were submitted to a local review authority prior to June 8, 1987, and projects for which formal preliminary local approvals were given prior to July 1, 1988 are exempt from permit requirements of the Freshwater Wetlands Protection Act.

Projects for which the U.S. Army Corps of Engineers has issued an individual permit prior to July 1, 1988, are exempt from permit requirements under the Act. Specific activities authorized by Army Corps Nationwide Permits issued for a specific site which were applied for on or before June 10, 1988 are also exempt.

These exemptions do not apply where significant changes occur to the approved plan, a project is inactive for a period of time, the major subdivision or site plan approval was given prior to the August, 1976 effective date of the Municipal Land Use Law, or if the permit has expired. In addition, these exemptions shall be void as of the date of assumption by the Department of the Federal 404 program.

Projects which are not subject to the jurisdiction of the Army Corps of Engineers pursuant to Section 404 of the Federal Clean Water Act, and for which municipal approval in the form of a preliminary or final site plan approval, or major subdivision approval have been approved between the dates of July 1, 1988 and July 1, 1989 shall not require transition areas. In simple terms this means that if a project received a formal preliminary

approval from a municipal planning board before July 1, 1989 and the project does not encroach on any freshwater wetlands or State open waters whatsoever, then the project would not be required to comply with the transition area rules.

A person may obtain a letter from the Bureau of Freshwater Wetlands certifying that an activity or project is exempt from the Act. A complete listing of the types of projects and activities exempted from the Act, as well as a listing of relevant information needed to support an exemption letter request, may be found in N.J.A.C. 7:7A-2.7 and 2.9.

Geographic Areas Exempted from Freshwater Wetlands permit requirements

Projects and activities in areas under the jurisdiction of the Wetlands Act of 1970 (N.J.S.A. 13:9A-1) will not require freshwater wetlands permits.

Also, activities and projects in areas under the jurisdiction of the New Jersey Pinelands Commission or the Hackensack Meadowlands Development Commission will not require a freshwater wetlands permit or be subject to the transition area requirements of the Act. However, due to the State's attempt to assume the Federal 404 program, the discharge of dredged or fill material into State open waters and freshwater wetlands may require an Open Water Fill Permit.

All projects requiring a Federal permit or license for the discharge of dredged or fill material into State open waters or freshwater wetlands will require a Water Quality Certificate.

For further information concerning the types of activities and the precise geographical areas regulated by the Pinelands Commission, call 609-894-9342. For information concerning the Hackensack Meadowlands Commission call 201-460-1700.

The exemptions noted above may be subject to the Federal 404 program administered by the ACOE and permits may be required by the ACOE for some activities exempted from State regulation.

Statewide General Permits

The Freshwater Wetlands Protection Act provides for the issuance of Statewide General Permits. Persons wishing to develop a parcel should try to avoid all wetlands or to design a project to make use of the general permits if encroachment is absolutely necessary. The Statewide General Permits provide an expedited approval process for certain types of regulated activities subject to certain limitations. Many of the permits may be used in

conjunction with one another and their use is strongly encouraged in order to avoid higher impact activities which would need individual permits.

An activity covered by a Statewide General Permit is permitted as long as an approval letter is obtained from the Bureau of Freshwater Wetlands prior to engaging in a regulated activity and provided that the conditions outlined in the general permit are satisfied. The Department's authorization for a Statewide General Permit automatically includes a Transition Area Waiver. Access through the transition area to the site of an authorized activity is allowed to the extent necessary to accomplish the activity. To obtain a Statewide General Permit approval for a particular site or project one must apply to the Bureau of Freshwater Wetlands on Freshwater Wetlands Form (FW-1).

The following are a listing of the 17 Statewide General Permits issued at this time:

1. Maintenance of pre-existing structures, utilities, roads and drainage facilities;
2. Utility line crossings;
3. Discharge of sediments from dredging activities;
4. Oil and hazardous substances clean-up by the State or Federal government;
5. The removal of non-historic obstructions to navigation;
6. The placement of fill in wetlands which are not part of a surface water tributary system;
7. The placement of fill in ditches and swales in headwater areas;
8. Additions to existing residential structures requiring less than 750 square feet of fill; and
9. Certain state or federally funded road projects.
10. Minor road crossings;
11. Construction of stormwater outfalls;
12. Surveying and wetland investigations;
13. Fish and wildlife harvesting devices (traps and duck blinds);

14. Placement of scientific recording and monitoring devices;
5. Mosquito control projects;
16. Fish and wildlife management activities; and
17. Trail and boardwalk construction.

You may obtain a complete listing of the Statewide General Permits by contacting the Bureau of Freshwater Wetlands at the address below or by referring to the Freshwater Wetlands Protection Act Rules N.J.A.C. 7:7A-1 et seq..

The Bureau of Freshwater Wetlands may issue more than one general permit covering more than one activity on a parcel provided that the total area or areas of disturbance to a freshwater wetland or State open water does not exceed the maximum area of disturbance provided for under the applicable general permits and provided the total area of disturbance does not exceed one acre.

General Conditions for all Statewide General Permits

Any activity authorized by a Statewide General Permit must comply with the conditions of that permit. In addition, any activity authorized under a Statewide General Permit must not:

1. Occur in the proximity of a public water supply intake;
2. Jeopardize an endangered or threatened species or its habitat;
3. Occur in a component of a Wild and Scenic River System or in a river designated as a "study river"; or
4. Negatively affect properties listed or eligible for listing on the National Register of Historic Places.

Best management practices must be followed when appropriate and any fill or structures must be properly maintained. See N.J.A.C. 7:7A-9 for a complete listing of Statewide General permit conditions.

Individual Permits

Any regulated activity proposed in a freshwater wetland or State open water which is not authorized by a Statewide General Permit or which does not meet the conditions for the use of a General Permit will require an Individual Permit. Also, an application for an Individual Permit may be required if the Department finds that additional permit conditions would not be sufficient or that special circumstances make this action necessary to ensure compliance with the Act.

The Freshwater Wetland regulations distinguish between projects that are water dependent and those that are non-water dependent. The Department will issue an Individual Permit only if it finds that the regulated activity has no practicable alternative which would not involve a freshwater wetland, or would have less adverse impact on the aquatic ecosystem. Also an alternative must not merely substitute other significant adverse environmental consequences for those of the original proposal. It will be a rebuttable presumption that there is a practicable alternative for any non-water dependent regulated activity.

In order to rebut the presumption established for non-water dependent activities when the activity will take place in a wetland of exceptional resource value, an applicant must also demonstrate that there is compelling public need for the proposed activity and that denial of the permit would impose an extraordinary hardship on the applicant brought about by circumstances peculiar to the subject property. In addition, mitigation will be required for all individual permits. The Department's issuance of an Individual Permit automatically includes a Transition Area Waiver to conduct prohibited activities in the transition area to the extent necessary to accomplish the permitted activity and any required mitigation. For a detailed description of the "General Standards for Granting Freshwater Wetlands Permits", see N.J.A.C. 7:7A-3.

Transition Area Waivers

The rule also provides criteria for reducing, eliminating a portion of, or modifying the shape of the transition area through the Department's approval of transition area waivers. The various types of waivers fit into three principal classes and are discussed below.

1. Transition area waiver, Reductions. This waiver may be approved on the basis of a finding that the proposed project or activity will not result in substantial impact to the adjacent wetland or that the waiver is necessary to avoid a substantial hardship. This waiver would allow the reduction in the standard width of the transition area without requiring expansion of the remaining transition area for compensation. The statutory criteria for the

approval of this waiver are very strict; therefore, granting of this waiver will be very limited.

2. Transition area waiver, Special activities. This waiver may result in approval of the partial elimination of the transition area, again without compensation, only for the special activities listed below:

a. Stormwater management facilities. These facilities would include detention or retention basins, grassed swales, outfalls, etc. These waivers may be approved if the applicant can demonstrate that there is no feasible alternative onsite location for the facility.

b. Linear development. These facilities would include roadways, railroads, rights-of-way, pipelines or other transmission facilities. These waivers may be approved if the applicant can demonstrate that there is no feasible alternative location for the facility.

c. Activities permitted under specific Statewide general permits. In order to ensure consistency with the provisions of the Act all appropriate activities permitted under the Statewide general permits in wetlands may be authorized as special activity transition area waivers to be conducted in the transition area. The limitations associated with the Statewide general permits will also apply to the transition area waivers. These waivers may be approved if a project meets all of the appropriate criteria and is designed to minimize impacts on the freshwater wetlands. For example, a waiver may be issued for the activities defined under Statewide general permit # 10, minor road crossing, with the same limitations, for a proposed minor road crossing in a transition area

3. Transition area waiver, Averaging plan. This waiver may result in approval of a plan to modify the overall shape of the transition area without reducing the total square footage of the existing transition area. This waiver may be approved if the proposed averaging plan still provides the values and functions of a transition area as described in the Act. An averaging plan will be much easier to obtain than a straight reduction. The Department of Environmental Protection anticipates that this type of waiver, together with the waivers for Statewide general permit activities, listed above at 2. Transition area waiver, Special activities, will make up the majority of the waivers issued by the Department.

Water Quality Certification

As of July 27, 1988 the Division of Coastal Resources has been assigned the responsibility for implementing the Federal Clean Water Act, the Section 401 Water Quality Certification (WQC) program. All projects requiring a Federal permit or license for the discharge of dredged or fill material into State open water and/or wetlands will require a WQC. For example, permits issued pursuant to Section 404 of the Federal Water Pollution Control Act (Clean Water Act), 33 U.S.C.A. 1341 et seq. (1987) or licenses issued by the Federal Energy Regulatory Commission under the Federal Power Act, 16 U.S.C.A. 1791 et seq., will require a WQC. The purpose of the certification is to ensure that all such activities are consistent with New Jersey Water Quality standards, N.J.A.C. 7:9-4.1 and Department policies related to water quality management.

Individuals proposing projects which require a Water Quality Certificate should apply for the WQC by submitting an Individual Freshwater Wetlands or Open Water Fill Permit application. In general the Division's strategy to implement the Water Quality Certification program is to combine it with the existing regulatory review and permit applications and in doing so consolidate this process with the existing decision-making process. The Water Quality Certificate may then be issued in conjunction with other Division of Coastal Resources permits whenever possible, for example Individual Freshwater Wetland Permit/Water Quality Certificate, Open Water Fill Permit/Water Quality Certificate, CAFRA/Water Quality Certificate or Waterfront Development Permit/Water Quality Certificate. Individual Water Quality Certificates will be reviewed independently when no Division of Coastal Resources construction permits are required for the project

Open Water Fill Permit

The Freshwater Wetland Protection Act amended in part the New Jersey Water Pollution Control Act N.J.S.A. 58:10A-1 et seq. The amendment placed the responsibility for New Jersey Pollution Discharge Elimination System (NJPDES) permits, involving the discharge of dredged or fill materials into open waters of the State, under the jurisdiction of the Department. The NJPDES permit for these activities is issued by the Bureau of Freshwater Wetlands and is known as an Open Water Fill Permit. The standards for reviewing an Open Water Fill permit shall be the same as those followed by the Army Corps of Engineers under section 404 of the Federal Clean Water Act. These standards can be found at 40 C.F.R. 230 et seq., commonly known as the "404 (b)(1) Guidelines". See N.J.A.C. 7:7A-11 for application procedures.

Pre-Application Conference

An applicant may request a pre-application conference to obtain guidance from the Division regarding any of the required permits. This conference allows the Department and the applicant to discuss permit standards in relation to a particular site and proposed project. The Division requires submission of the written information specified in N.J.A.C. 7:7A-10.2 prior to scheduling a conference.

Application Procedure for Individual Permits

To apply for an Individual Permit, an applicant must submit the information required by N.J.A.C. 7:7A-11. This will include ten copies of the following information:

1. Completed application form (FW-1);
2. Site plan;
3. Description of the regulated activity;
4. Description of alternatives;
5. Description of proposed project;
6. List of other approvals received to date or which are required;
7. Description of environmental effects;
8. Other information as needed;
9. Proof of notification of the various individuals and agencies listed at 7:7A-11.1(a)9; and
10. A fee as specified in N.J.A.C. 7:7A-16.

Upon receipt of an application, the Department will transmit copies to other reviewing agencies. Public notice of the application, as well as the permit status, will appear in the DEP Bulletin. Interested persons may request in writing that a public hearing be held on a particular application, prior to formal action by the Department. The Department, however, may issue or deny a permit without a public hearing if there is not a significant degree of public interest. Individual permits will be reviewed and acted upon within 180 days of the submittal of a complete application.

Applications may be cancelled by the Department, or withdrawn, amended, or resubmitted by the applicant in accordance with N.J.A.C. 7:7A-12.7. However, all fees submitted with an application are non-refundable. An applicant, or any other affected party, may request an administrative hearing on any decision to issue or deny a permit. Detailed application procedures can be found in N.J.A.C. 7:7A-11 and the Instruction Sheets attached to the permit application (FW-1 form).

Permit Conditions

There are standard conditions to all permits issued by the Bureau of Freshwater Wetlands. A complete listing of the conditions may be found in N.J.A.C. 7:7A-13. Other conditions may be attached to a permit on a case-by-case basis to ensure compliance with the rules.

Duration of Permits

Freshwater Wetland and Open Water Fill permits will be effective for a fixed term not to exceed five years. A permit may be transferred to a new owner or operator by a formal modification of the permit. A more complete explanation of permit modifications and time limits can be found in N.J.A.C. 7:7A-13.

Permit Issuance

A Freshwater Wetlands Permit, Open Water Fill Permit or Water Quality Certification will only be issued after the positive findings required by the Act are made by the Bureau of Freshwater Wetlands. The Bureau will use the standards set forth in the adopted rules which may be found in N.J.A.C. 7:7A-3, 7:7A-4, and 7:7A-13. Permits may be issued by the Bureau in an emergency situation as outlined in N.J.A.C. 7:7A-5.

Wetlands Mitigation

When the Bureau of Freshwater Wetlands approves an Individual permit, mitigation is required to compensate for the loss or disturbance of freshwater wetlands or State open waters. The Department will not consider a mitigation proposal in determining whether a project should be awarded a permit. The Bureau of Freshwater Wetlands distinguishes between four types of mitigation: restoration, creation, enhancement, and contribution. The ratio of mitigated land area to area of impacted wetlands will vary depending upon the type of mitigation proposed or required by law, but in no case will be lower than one acre disturbed to one acre mitigated. Contribution refers to the donation of money or land to the Mitigation Bank. The

Department will permit the donation of land only after determining, in consultation with the USEPA, that all alternatives to the donation are not practicable or feasible. Mitigation standards are contained at N.J.A.C. 7:7A-14 et seq.

Enforcement

The Act provides for substantial administrative, civil, and criminal penalties for violators. The penalties vary in monetary amount based upon the severity of violation and conduct of the violator. A maximum penalty of \$10,000 per day per violation may be assessed. In calculating the civil administrative penalty, the Bureau of Freshwater Wetlands may consider the amount of economic benefit gained the violator by engaging in a regulated activity without approvals. In addition, civil actions may be instituted in Superior Court for other types of relief including a temporary or permanent injunction, an assessment against the violator of costs incurred by the State for investigation and/or remediation of the violation, and a court order that a violator remove the illegal activity, and restore or rehabilitate a site. For information concerning violations and enforcement call the Department's Bureau of Inland Enforcement at (609)292-1240.

Additional Information

This program summary does not reflect the entire text of the Freshwater Wetlands Protection Act, N.J.S.A. 13:9B, et seq., nor of the Rules promulgated pursuant to the Act, N.J.A.C. 7:7A. For a complete copy of the Act, Rules, and permit application package, call or write to the Bureau of Freshwater Wetlands at the address below:

New Jersey Department of Environmental Protection
Division of Coastal Resources
Bureau of Freshwater Wetlands
CN 401
501 East State Street
Trenton, New Jersey 08625
(609) 984-0853 or 984-0852

Summary of Statewide General Permits

Statewide General Permits

The Freshwater Wetlands Protection Act provides for the issuance of Statewide General Permits. The Statewide General Permits provide an expedited review process for certain limited types of regulated activities subject to certain limitations. Many of the permits may be used in conjunction with one another and their use is strongly encouraged in order to avoid high impact activities which would need individual permits. Additionally, a general permit can be issued quickly, preventing costly delays and uncertainties in projects. Activities regulated by the Freshwater Wetlands Protection Act and not covered by a Statewide General Permit will need to obtain a Individual Freshwater Wetlands or Open Water Fill Permit.

An activity covered by a Statewide General Permit is authorized by the issuance of a letter, if the conditions outlined in the permit are met for the particular activity and the activity does not conflict with the conditions of the Act and the regulations. However, you must apply to the Bureau of Freshwater Wetlands in order to obtain a letter authorizing the use of a Statewide General Permit for your particular site or project. No person may engage in activities within a freshwater wetland or State open water unless they have applied for and obtained the appropriate Statewide General Permit(s) authorization letter.

The following description is a summary of the Statewide General Permit program, and does not include all of the legal requirements which are contained in the rules to implement the program (N.J.A.C. 7:7A-1.1 et seq).

Standard Conditions for all Statewide General Permits

All activities authorized under the Statewide General Permits shall comply with the conditions of the general permit category, as outlined below and set forth at N.J.A.C. 7:A-13.1 and 13.2 and the procedures in N.J.A.C. 7:7A-9.4.

The following conditions must be met for any activity authorized under a Statewide General Permit. The activity will not:

occur in the proximity of a public water supply intake; jeopardize an endangered or threatened species or its habitat; occur in a component of a Wild and Scenic River System or in a river designated as a "study river"; negatively affect properties listed or eligible for listing on the National Register of Historic Places; best management practices must be followed when appropriate; and, the fill or the structure allowed must be properly maintained.

Use of Multiple Statewide General Permits

The Department may approve activities under more than one Statewide General Permit on a single property subject to conditions contained in N.J.A.C. 7:7A-9.3. Generally, these conditions include the following limitations;

1. An approval letter may be issued for more than one activity, for more than one location on a given property provided that the total area of disturbance to a freshwater wetland or State open water does not exceed the maximum allowed under that General Permit.
2. For Statewide General Permits #2, 6, 7, 10 and 11, the Department may approve activities covered under more than one General Permit on one property provided that the total disturbance to freshwater wetland or State open water, does not exceed one acre. Further, Statewide general permits #6 and #7 have their own individual limits of one acre for the total area of disturbance of wetlands or open water, while permits #10 and #11 limit the total area of disturbance to one quarter (0.25) acre each. For example, the Department could approve onsite a minor road crossing disturbing 0.25 acres, stormwater outfall structures disturbing 0.25 acres, and the filling of 0.5 acres of a ditch.
3. The use of Statewide General Permit #8 (750 sq. ft. additions to existing residential dwellings) is limited to one time per property. Later additions will require an Individual Freshwater Wetlands Permit.
4. For Statewide General Permits #1, 3, 4, 5, 9, 12, 13, 15, 16, and 17, any number of activities on a single property may be approved. Later activities on the same property will also be eligible for a Statewide General Permit. No property will be the subject of Department approvals under Statewide General Permits #2, 6, 7, 10 and 11 more often than once every 5 years.

General Permit #1

The maintenance, reconstruction, or repair of roads structures, utilities, drainage facilities, or other improvements, lawfully existing prior to July 1, 1988 or permitted under the Act, provided that such activities do not result in disturbance of additional wetlands upon completion of the activity.

General Permit #2

The discharge of material for backfill or bedding for utility lines as long as pre-construction elevations and bottom contours are not changed, the total area encompasses no more than one acre of wetlands, the right of way is not more than 20 feet wide, the wetland is neither of exceptional resource value nor a US EPA priority wetland, the upper 18 inches is backfilled with original topsoil, the area is replanted with native species, and the activity does not interfere with the natural hydraulic characteristics of the wetland.

General Permit #3

The discharge of return water from an upland contained dredged material disposal area provided the project has received a Water Quality Certificate under Section 401 of the Federal Act. The dredging itself may also require State and Federal permits.

General Permit #4

Structures, work and discharges necessary for the containment and clean-up of oil and hazardous substances which are undertaken by the State or Federal government as long as the activity does not occur in an exceptional resource value wetland or a US EPA priority wetland.

General Permit #5

Temporary or minor work required for the removal of non-historic wrecked, abandoned, disabled vessels or man-made obstructions to navigation. This does not authorize maintenance dredging, stream cleaning, shoal removal, or river bank snagging.

General Permit #6

Activities in a freshwater wetland or State open water which are not a surface water tributary system that discharges into an inland lake, pond, river, or stream as long as the activity will not result in a substantial loss or modification of more than one acre of wetlands; will not take place in an exceptional resource value or a US EPA priority wetland or in a State open water defined as a special aquatic site.

General Permit #7

The removal, excavation, disturbance or dredging of soil, filling with material, destruction of vegetation and placement of obstructions is permitted in ditches and swales provided that the area is in a headwaters area, not in an exceptional resource value or a US EPA priority wetland and will not result in the substantial loss or modification of more than one acre of wetland.

General Permit #8

Appurtenant improvements or additions to residential dwellings existing prior to July 1, 1988, providing that less than 750 square feet of cumulative area of new fill will be required and will not result in new alterations to the freshwater wetlands outside the fill area.

General Permit #9

State or Federally funded roads planned and developed in accordance with the "National Environmental Policy Act of 1969," the Federal Act, and with Executive Order Number 53 (approved November 21, 1983) which were the subject of an application made prior to July 1, 1988 to the Army Corps of Engineers provided that upon expiration, any application for renewal or modification will be made to the Department. A transition area will not be a condition of a renewal or modification of a permit under this category.

General Permit #10

Minor road crossing fills and expansion of existing road crossing fills including attendant features, both temporary and permanent, crossing a freshwater wetlands provided the crossing is

designed to prevent the restriction of and to withstand expected high water flows, the disturbance is limited to 100 feet or less of wetlands or open water, the crossing is designed to have as little environmental effect as possible, and no more than 100 cubic yards of fill material are used or more than 0.25 acres of wetland or State open water are disturbed. The crossing must be designed so as not to impede fish passage, when a watercourse is present, by maintaining the existing gradient and bottom contours of the water course; using open arch or box culverts; and using single large open arches or culverts to span the watercourse.

General Permit #11

The construction of stormwater outfall and conveyance structures provided:

1. the design causes minimum disturbance;
2. the limit of disturbance or modification does not exceed 20 feet in width;
3. the total area of disturbance or modification does not exceed 0.25 acres of wetlands;
4. the facility is designed in accordance with the Standards for Soil Erosion and Sediment Control in New Jersey. If applicable, the facility shall be designed in accordance with a soil erosion and sediment control plan approved by the appropriate Soil Conservation District. If no plan is required the applicant shall certify to the Department that the proposed facility is in accordance with the standards for Soil Erosion and Sediment Control.
5. all stormwater discharged from the outfall is either filtered or pretreated outside the wetland prior to the discharge;
6. the total amount of rip-rap and/or other stabilizing material will not exceed 10 cubic yards per outfall; and
7. the upper 18 inches of backfill must consist of the original topsoil and the backfilled area shall be returned to the pre-existing elevation.

General Permit #12

Surveying activities such as soil borings and the cutting of narrow (three to five feet in width) survey lines. Survey lines of less than three feet in width and hand dug soil borings shall not require Department authorization.

General Permit #13

Fish and wildlife harvesting activities such as duck blinds and traps.

General Permit #14

Placement of water level recording devices, water quality monitoring and testing devices, and similar scientific devices.

General Permit #15

Those mosquito control activities conducted by a county mosquito control agency, or Federal agency on federal land, provided that best management practices are employed, the disturbance of vegetation is minimal, light equipment is used, the spoils are removed or spread in a shallow layer, the hydrologic conditions of the hydric soils are maintained, the activity is not in a wetland of exceptional resource value, and the Administrator of the State Office of Mosquito Control Coordination determines the proposal is necessary to control a documented mosquito problem to area residents.

General Permit #16

Fish and wildlife management activities requiring no more than 10 cubic yards of clean fill in State or Federal wildlife management areas, parks, or reserves. This includes but is not limited to the placement of artificial nesting structures, nesting islands, observation blinds, sign posts, or fencing; the clearing, burning or removal of vegetation to increase habitat diversity or to control nuisance flora and the filling of man-made drainage ditches to restore previously existing wetlands.

General Permit #17

The construction of trails and/or boardwalk structures on publicly owned park land, wildlife management areas or reserves provided that the width does not exceed six feet, except for barrier free trails or boardwalks designed in accordance with the Barrier Free Subcode of the Standard Uniform Construction Code; and natural materials are used to the maximum extent practicable.

Application for Activities Under Statewide General Permits

A person that intends to engage in an activity covered by a general permit must submit an application, to the Bureau and notice, by certified mail, to the clerk of the municipality and to the county clerk at least 30 days prior to starting any work. Notice to the County and Municipal clerks must contain a description of the proposed activity, the location of the activity (Block Lot, Municipality, and County), and a plan which details the proposed activity and includes all existing structures, proposed structures or activities and the location of all wetlands boundaries.

In addition to the information noted above, an application for an approval letter to the Bureau must include any information necessary to determine whether the conditions of the general permit will be satisfied and a payment of a \$100 fee for each general permit sought, with the exception of permits #12, 13 and 14 which require no fee. Freshwater Wetland Permit Application form (FW-1) must be used.

The person proposing the work will be notified within 30 days of the receipt of a complete application for a permit by the Bureau as to whether the project is covered by a general permit. No person, corporation, or other entity may engage in any activity covered by a general permit without securing an approval letter prior to commencing work. For a complete discussion of Statewide General Permits please refer to N.J.A.C 7:7A-9.1 et. seq.

APPENDIX B

STATE OF NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION DIVISION OF COASTAL RESOURCES BUREAU OF FRESHWATER WETLANDS

July 1, 1989

Freshwater Wetlands Application Fee Schedule

A fee is required pursuant to the Freshwater Wetlands Protection Act Rules at N.J.A.C. 7:7A for the review of permit applications, letters of interpretation and certain exemption requests. All fees shall be paid by check or money order and made payable to "Treasurer, State of New Jersey" and submitted to:

Bureau of Freshwater Wetlands
Division of Coastal Resources
New Jersey Department of Environmental Protection
CN 401
Trenton, NJ 08625

Each check or money order must be marked to identify the nature of the submittal for which the fee is being paid and the name of the applicant.

1. Letter of Interpretation Fees

- (a) To determine if wetlands are present or absent.....\$ 100.00.
- (b) For verification or delineation of a wetland boundary line for a parcel of land less than one acre \$100.00.
- (c) For verification of a proposed wetland boundary line on a parcel of one acre or more\$250.00
plus \$20.00 per acre or any fraction thereof.

(Note: NJDEP does not delineate wetlands boundaries on properties of one acre or more, but will verify proposed lines.)

2. Individual Freshwater Wetlands Permit Application Fees

Fee for review of an Individual Freshwater Wetlands Permit application.

- (a) To drive pilings \$500.00.

- (b) For any other regulated activity \$1,000.00
plus \$100.00 per one-tenth acre, or any fraction thereof, of the
freshwater wetlands to be affected by the proposed activity.

3. Open Water Fill Permit Application Fees

Fee for review of an individual Open Water Fill Permit application
..... \$1,000.00
plus \$100.00 per one-tenth acre, or any fraction thereof, of State open
water affected by the proposed discharge of dredged or fill material.

4. Statewide General Permit Fees

- (a) The fee for review of proposed activity covered by a General
Permit application \$100.00.
- (b) If a proposed project requires more than one type of general
permit authorization, the fee shall be \$100.00
for each permit.
- (c) There is no fee for General Permits # 12 (surveying), # 13 (fish
and wildlife harvesting), or # 14 (placement of water level
recording or water quality monitoring devices).

5. Exemption Letter Request Fees

The fee for the review and processing of a request for an exemption
letter certifying that a project is exempt from freshwater wetlands or
open water fill permit requirements, or from transition area
requirements, shall be \$100.00.

6. Transition Area Waiver Fees

Fee for the review and processing of a transition area waiver
application:

- (a) Fees for Transition Area Waiver Applications for projects with
a completed Letter of Interpretation, either delineating or
confirming the wetlands boundary.

1. For a property or right of way of one acre or less: \$100.00
2. For a property or right of way over one acre: \$200.00 plus \$20.00 per
acre, or any fraction thereof, of the standard transition area proposed to
be modified.

- (b) Fees for Transition Area Waiver Applications for projects without a Letter of Interpretation. The acreage figures are based on the size of the project site.

1. For a property or right of way of one acre or less: \$200.00.
2. For a property or right of way over one acre: \$450.00 plus \$25.00 per acre, or any fraction thereof, of the total property.

- c) Fees for projects with a Letter of Interpretation identifying only the presence or absence of wetlands, State open waters and/or transition areas: the acreage figures are based on the size of the project site.

1. For a property or right of way of one acre or less: \$100.00.
2. For a property or right of way over one acre: \$450.00 plus \$25.00 per acre, or any fraction thereof, of the total property.

7. Water Quality Certificate Fees

- (a) Currently there are no fees charged for the review of Water Quality Certificate applications. Fees for review of these applications are being considered and may be proposed in future rule proposals.

If more than one inspection by the Department is necessary because of any act or omission of the applicant, the Department may assess an additional fee for each additional visit in an amount not to exceed \$1,000. No application for a letter of interpretation, approval, certificate or permit shall be reviewed or considered until this fee has been paid.